

No. 4:04-CR-56-1H
No. 4:07-CV-185-H

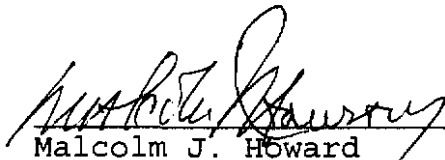
ORDER

On November 18, 2010, an order was entered granting the government's motion to dismiss petitioner's motion to vacate his sentence brought pursuant to 28 U.S.C. § 2255. Rule 11 of the Rules Governing Section 2255 Cases provides "the district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." Having determined petitioner is not entitled to relief and respondent is entitled to dismissal of the petition, the court considers whether petitioner is nonetheless entitled to a certificate of appealability with respect to one or more of the issues presented in his §2255 petition.

the petitioner must demonstrate that reasonable jurists could debate whether the issue should have been decided differently or show the issue is adequate to deserve encouragement to proceed further. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 483-84 (2000).

After reviewing the claims presented in the petition in light of the applicable standard, the court finds that reasonable jurists would not find the court's treatment of any of petitioner's claims debatable or wrong and none of the issues are adequate to deserve encouragement to proceed further. Accordingly, a certificate of appealability is denied.

This 28th day of November 2010.



Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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